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OFFICIAL**FACSIMILE TRANSMITTAL SHEET**

Deliver to: Examiner Allen Ho
Firm Name: USPTO
Fax Number: 1-703-872-9306 703-308-6189 (phone)
From: Juanita Briscoe, secretary to Daniel Ovanezian
Date: 11/10/03 Time: _____
Operator: _____ Matter: 5513.P003
Number of pages including cover sheet: 28

Message: Regarding application no. 10/033,327, attached is a copy of the filed Response to Office Action mailed on July 11, 2003. On the Decision Granting Petition mailed October 31, 2003 (copy attached), it is stated that a response to the July 11, 2003 Office Action was not filed. Also attached is a copy of the PTO stamped postcard showing that it was received by the PTO on 10/6/03. I will call you on Friday to confirm receipt of this response, thank you.

CONFIDENTIALITY NOTE

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Paper No. 8

 00513-703
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 BLAKELY SOKOLOFF TAYLOR & ZAFMAN
 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
 LOS ANGELES, CA 90025

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OCT 31 2003

OFFICE OF PETITIONS

 In re Application of
 Ulrich Martin Graf
 Application No. 10/033,327
 Filed: November 2, 2001
 Attorney Docket No. 005513.P003

 DECISION GRANTING PETITION
 UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 6, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**. ✓

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 30, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 5, 2004 accompanies this decision on petition.

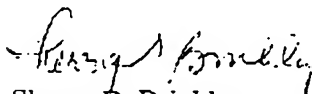
Application No. 10/033,327

Page 2

There is no indication that a reply to the non-final Office action of July 11, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of July 11, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result again in the abandonment of this application.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

This application is being returned to Technology Center Art Unit 2882 to await a reply to the non-final Office action mailed July 11, 2003, the period of which is restarted to run from the mailing date of this decision on petition as noted above.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

RECEIVED

OCT 13 2003

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
LOS ANGELES

Application No.: 10/033,327 Filing Date: 11/2/2001 Docket #: 005513.P003
Date Mailed: 09/30/2003 Due Date(s): 10/11/2003
Client: VARIAN MEDICAL SYSTEMS, INC. Atty/Sec: DEO/AMG/elc
Title: Radiotherapy Apparatus Equipped with an Articuable Gantry for Positioning an
Imaging Unit
First Named Inventor: Ulrich Martin Graf
The following has been received in the U.S.P.T.O. on the date stamped hereon:
Amendment: Response (16 pgs)
Certificate of Mailing
Transmittal Letter
Postcard + CHECK NO. 60410 FOR \$270.00
Assignee: Varian Medical Systems, Inc. * CHECK NO. 60506 FOR \$6.00



11/10/2003 12:07 FAX

BLAKELY SOKOLOFF TAYLOR

003

Application No.: 10/033,327 Filing Date: 11/2/2001 Docket #: 005513.P003

Date Mailed: 09/30/2003 Due Date(s): 10/11/2003

Client: VARIAN MEDICAL SYSTEMS, INC. Atty/Sec: DEO/AMG/elc

Title: Radiotherapy Apparatus Equipped with an Articulate Gantry for Positioning an Imaging Unit

First Named Inventor: Ulrich Martin Graf

The following has been received in the U.S.P.T.O. on the date stamped hereon:

Amendment: Response (16 pgs)

Certificate of Mailing

Transmittal Letter

Postcard

+ CHECK NO. 60410 FOR \$270.00

Assignee: Varian Medical Systems, Inc. + CHECK NO. 60506 FOR \$6.00

11/10/2003 12:07 FAX

BLAKELY SOKOLOFF TAYLOR

004

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SUNNYVALE, CA 94086

60506

60506

October 1, 2003

PAY SIX & NO/100

DOLLARS \$ 6.00

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OF

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60410

September 30, 2003

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Invoice: 09/30/2003 Amount: 270.00
005513.P003 - Varian Medical Systems, Inc.
AMG/elc
Additional claims filing fee
Serial No.: 10/033,327
Inventors: Graf
Title: Radiotherapy Apparatus Equipped with an Articulable
Gantry for Positioning an Imaging Unit

60410